

1 Q. ON PAGE 8, LINES 6 THROUGH 7 OF HIS JULY 9, 2003 TESTIMONY,  
2 STAFF WITNESS DR. SPEARMAN STATES THAT "PRICES FOR  
3 TELECOMMUNICATIONS SERVICES ARE BASED ON LONG-RUN  
4 INCREMENTAL OR MARGINAL COSTS (MC) WHICH ARE APPROVED  
5 BY THIS COMMISSION" PLEASE COMMENT ON THAT STATEMENT.

6  
7 A. This statement could be read to suggest that the rates for BellSouth's retail  
8 services bear (or have borne) some particular relationship to the costs of  
9 BellSouth's services. This, however, is simply not the case.

10  
11 As was demonstrated in the Universal Service docket (Docket No. 97-239-C),  
12 BellSouth's prices for single-line residential services, for instance, are and have  
13 been below BellSouth's costs of providing the service. Beyond that, prices for  
14 such services in general bear (and have borne) an inverse relationship to the costs  
15 of those services. The prices for single-line residential services, for example, are  
16 lowest in the more rural areas of the state despite the fact that the costs of  
17 providing those services are highest in those areas of the state. That means, of  
18 course, that other services must be priced well above their costs.

19  
20 Q. DR. SPEARMAN ALSO STATES (ON PAGE 8, LINES 9-11 OF HIS JULY 9,  
21 2003 TESTIMONY) THAT "TO THE EXTENT THAT RETAIL PRICES  
22 EXCEED THE COMMISSION APPROVED LONG-RUN INCREMENTAL

1 COSTS, AN ABUSE OF MARKET POSITION COULD BE INDICATED."  
2 COULD YOU COMMENT ON THIS STATEMENT?

3  
4 A. For all of the reasons explained by BellSouth witness Dr. Taylor, this statement  
5 does not apply to the telecommunications market in general or to the local  
6 exchange market in particular. Additionally, as discussed above, and as Dr.  
7 Spearman indicates (on page 3, lines 15-16 of his July 9, 2003 testimony), an  
8 abuse of market position involves conduct "that effectively prohibits a new firm  
9 from entering a market." While BellSouth believes that Dr. Spearman's  
10 definition should be refined to mean "anticompetitive pricing conduct" that  
11 effectively prohibits new entry, the point is that prices above long run incremental  
12 cost do not prohibit an efficient firm from entering the market. If any carrier is  
13 kept out of a market because it cannot match a price above long run incremental  
14 cost, one must assume that that competitor is less efficient, and it should not be  
15 the role of the Commission to try to prop up such a competitor at the expense of  
16 consumers.

17  
18 Further, I will refer back to my earlier discussion of the prices that various CLECs  
19 charge for residential call waiting, call waiting deluxe, call forwarding, three way  
20 calling, call return, and caller ID. The prices that CLECs are charging for these  
21 services likely exceed the long-run incremental costs of those services, but that  
22 clearly does not indicate an abuse of market position.

1 Q. DOES DR. SPEARMAN'S STATEMENT THAT "TO THE EXTENT THAT  
2 RETAIL PRICES EXCEED THE COMMISSION APPROVED LONG-RUN  
3 INCREMENTAL COSTS, AN ABUSE OF MARKET POSITION COULD BE  
4 INDICATED" HAVE ANY UNIVERSAL SERVICE IMPLICATIONS?

5

6 A. Yes, it does. The fact that some services (such as single-line residential services)  
7 are priced well below their costs means that other services must be priced well  
8 above their costs. Increasing restrictions on the ability of a company operating  
9 under alternative regulation to price "other services" above their costs will, in all  
10 likelihood, increase the burden on the state universal service fund. It also will  
11 make it more and more difficult for carries like BellSouth to fulfill their carrier of  
12 last resort obligations.

13

14 Q. ON PAGES 5 THROUGH 7 OF HIS JULY 9 DIRECT TESTIMONY, DR.  
15 SPEARMAN DISCUSSES VARIOUS TYPES OF NON-PRICING BEHAVIOR  
16 THAT, IN HIS VIEW, COULD RESULT IN AN ABUSE OF MARKET  
17 POSITION. SHOULD THE COMMISSION CONSIDER ANY NON-PRICING  
18 BEHAVIOR IN DEFINING THE TERM "ABUSE OF MARKET POSITION"  
19 IN THIS DOCKET?

20

21 A. No, it should not. As I explained earlier, by stating that "rates" are subject to a  
22 complaint process for "abuse of market position," Section 58-9-576(B)(5) makes

1           it clear that the Commission may only consider whether pricing behavior  
2           constitutes an abuse of market position.

3

4   Q.    AT PAGE 8, LINES 1-2 OF HIS JULY 9 DIRECT TESTIMONY, DR.  
5           SPEARMAN STATES THAT "PRICE DISCRIMINATION" IS ONE OF THE  
6           MATTERS THAT WILL BE OF MOST CONCERN TO THE COMMISSION."  
7           SHOULD THE COMMISSION ADDRESS PRICE DISCRIMINATION IN  
8           THIS DOCKET?

9

10   A.   No, it should not.

11

12   Q.    WHY NOT?

13

14   A.    As I mentioned above, section 58-9-576(B)(5) provides that a LEC's rates for  
15           "other services" must satisfy two conditions: (1) they must not unreasonably  
16           discriminate between similarly situated customers; and (2) they "are subject to a  
17           complaint process for abuse of market position . . . ." The purpose of this docket  
18           is only to define the second condition (rates that constitute an abuse of market  
19           position) – not the separate and distinct first condition (unreasonable  
20           discrimination between similarly situated customers). The Commission,  
21           therefore, should continue to consider allegations of unreasonable discrimination  
22           on a case-by-case basis, as it did in resolving the Complaint that certain CLECs  
23           filed against BellSouth regarding certain promotions. *See* Order Ruling on

1 Complaint, *In Re: Southeastern Competitive Carriers Ass'n, NewSouth*  
2 *Communications Corp., and TriVergent Communications v. BellSouth Telecom.*  
3 *Inc.*, Order No. 2001-1036 in Docket No. 2000-378-C (October 29, 2001).  
4

5 **V. THE FCC HAS FOUND THAT BUNDLING**  
6 **IS CONSUMER-FRIENDLY AND PRO-COMPETITIVE**  
7  
8

9 Q. AT PAGE 8, LINES 1-2 OF HIS JULY 9, 2003 DIRECT TESTIMONY, DR.  
10 SPEARMAN STATES THAT "PRODUCT BUNDLING" IS AMONG THE  
11 MATTERS THAT WILL BE OF MOST CONCERN TO THE COMMISSION."  
12 PLEASE COMMENT ON THIS STATEMENT.  
13

14 A. While I agree that more and more competitors in the local exchange market are  
15 selling bundled offerings, I do not believe that this should be a matter of concern  
16 to the Commission. As I explain below, the FCC has found that bundling is  
17 consumer-friendly and pro-competitive. The FCC also has found that existing  
18 safeguards are sufficient with regard to bundling. Finally, many local exchange  
19 service providers already are offering both residential and business customers in  
20 South Carolina a wide array of bundled offerings.  
21

22 Q. HAS THE FCC RECENTLY ADDRESSED THE ISSUE OF BUNDLING?  
23

1 A. Yes. On March 30, 2001, the FCC released what is often referred to as its  
2 “Bundling Order.”<sup>2</sup> In the Bundling Order, the FCC clarified that “all facilities-  
3 based carriers may offer bundled packages of enhanced services and basic  
4 telecommunications at a single price, subject to existing safeguards.” See  
5 Bundling Order at ¶1 (emphasis added). The FCC explained that its decision  
6 will benefit consumers by enabling them to take advantage of  
7 innovative and attractive packages of services and equipment;  
8 foster increased competition in the markets for CPE, enhanced, and  
9 telecommunications services; and allow us to repeal regulatory  
10 requirements that no longer make sense in light of current  
11 technological, market, and legal conditions. Moreover, the actions  
12 we take in this order further Congress' directive in the  
13 Telecommunications Act of 1996 Act (1996 Act) that we repeal or  
14 modify any regulation we determine to be no longer in the public  
15 interest.

16  
17 *Id.* (emphasis added).

18  
19 Q. HOW DOES THE FCC DEFINE “BUNDLING?”

20  
21 A. The FCC defines “bundling” as “the offering of two or more products or services  
22 at a single price, typically less than the sum of the separate prices.” See Bundling  
23 Order at ¶15.

24  
25 Q. IS “BUNDLING” THE SAME AS “ONE-STOP SHOPPING?”

26  

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<sup>2</sup> Report and Order, *In the Matter of 1998 Biennial Regulatory Review – Review of Customer Premises Equipment and Enhances Service Unbundling Rules In the Interexchange, Exchange Access, and Local Exchange Markets*, 16 FCC Rcd. 7418, (Rel. March 30, 2001).

1 A. No. The FCC explained that its definition of bundling “is different from ‘one-  
2 stop’ shopping arrangements in which consumers may purchase the components  
3 of a bundle, priced separately, from a single supplier.” *Id.* at ¶15. The FCC  
4 concluded that “[w]hile ‘one-stop’ shopping is convenient for consumers, . . .  
5 they can benefit even more from bundled packages offered at a price discount.”  
6 *Id.* (emphasis added).

7  
8 Q. DID THE FCC EXPLAIN HOW CONSUMERS BENEFIT MORE FROM  
9 BUNDLING THAN THEY DO FROM “ONE-STOP SHOPPING?”  
10

11 A. Yes, it did. The FCC explained that “consumers benefit from bundling because it  
12 eliminates the need for carriers to separately provision, market, and bill services,  
13 and therefore reduces the transaction costs that carriers pass on to consumers.”  
14 *Id.* at ¶15. It also explained that bundling “can further reduce costs for  
15 consumers by eliminating the time and effort needed to find products and services  
16 in the market, negotiate appropriate purchase terms, and assemble the desired  
17 combinations.” *Id.* at ¶15.

18  
19 Q. DID THE FCC CONSIDER WHETHER CONSUMERS WANT THE OPTION  
20 OF PURCHASING BUNDLES OF SERVICES?  
21

22 A. Yes. The FCC stated that “[t]he record shows that consumers want the option to  
23 purchase bundled packages of products and services, and that carriers facing

1 competition in various service markets seek the ability to respond to this  
2 demand.” *Id.* at ¶16 (emphasis added).

3  
4 Q. DID THE FCC CONSIDER WHETHER BUNDLING IS OR IS NOT IN THE  
5 PUBLIC INTEREST?

6  
7 A. Yes, it did, and it found that bundling clearly is in the public interest. The  
8 following are among the many reasons the FCC set forth in support of this  
9 conclusion:

10  
11 offering consumers the choice of purchasing packages of products and  
12 services at a single low-rate will encourage them to subscribe to new,  
13 advanced, or specialized services by reducing the costs that they have to  
14 pay up-front to purchase equipment, or by giving them a choice of relying  
15 on one provider instead of having to assemble the desired combinations on  
16 their own (*Id.*, ¶10)(emphasis added);

17  
18 Price bundling also eliminates the transaction costs that carriers have to  
19 absorb in order to comply with the bundling rules, thereby enabling them  
20 to offer better prices whenever possible (*Id.*, ¶10) (emphasis added);

21  
22 Eliminating and clarifying our bundling restrictions will allow the  
23 suppliers of [CPE, enhanced services, interexchange service, and local  
24 exchange services] to compete more freely, making consumers the  
25 beneficiaries of deregulation, as we believe Congress intended when it  
26 passed the 1996 Act (*Id.*, ¶10) (emphasis added);

27  
28 all carriers, both incumbent and nondominant carriers, in all markets,  
29 demonstrate a desire to compete for customers through bundled service  
30 offerings (*Id.*, ¶11) (emphasis added);

31  
32 the influx of new subscribers due to the bundling of advanced  
33 telecommunications services with enhanced services and CPE may cause  
34 the fixed costs of providing service to be spread over a larger population  
35 of users, achieving economies of scale and lowering the cost of providing  
36 service to each subscriber. (*Id.*, ¶17) (emphasis added).  
37

1 Q. ARE THERE OTHER BENEFITS TO BUNDLING?

2 A. Yes. When a carrier offers two (or more) services together at a discounted  
3 bundled price, it may provide consumers the chance to purchase services that they  
4 would not have chosen to purchase at stand-alone prices. For example, if a carrier  
5 charges \$3 for service A and \$3 for service B on a stand-alone basis, and is  
6 willing to sell these services for \$5 as a bundle, some consumers that would not  
7 have purchased both of the services (or even one or the other) at full price may  
8 find it worthwhile to purchase them at the bundled price.

9  
10 Q. DID THE FCC CONSIDER THE STATE OF THE TELECOMMUNICATIONS  
11 MARKETPLACE IN REACHING ITS CONCLUSIONS?

12  
13 A. Yes. The FCC found that “consumers can benefit significantly by relying on the  
14 competitive markets that exist for the components contained in a bundle,” and it  
15 clarified that all carriers, including incumbent local exchange carriers like  
16 BellSouth, “may offer consumers bundles of enhanced and basic  
17 telecommunications services, subject to existing safeguards, thereby encouraging  
18 further options for consumers.” *Id.* at ¶9 (emphasis added).

19  
20 Q. DID THE FCC ADDRESS THE IMPACT THAT ALLOWING BUNDLING  
21 WOULD HAVE ON COMPETITION?

22  
23 A. Yes. The FCC concluded that “allowing all carriers to bundle products and

1 services is generally procompetitive and beneficial to consumers,” and that  
2 bundling “encourages competition by giving carriers flexibility both to  
3 differentiate themselves from their competitors and to target segments of the  
4 consumer market with product offerings designed to meet the needs of individual  
5 customers.” *Id.* at ¶14 (emphasis added). The FCC also expressly stated its belief  
6 that “eliminating and clarifying our bundling restrictions will encourage the  
7 competitive deployment of telecommunications services, enhanced services, and  
8 CPE.” *Id.* at ¶16 (emphasis added). Further, the FCC was

9 particularly persuaded that bundling can promote the deployment  
10 of advanced telecommunications services. For example, as several  
11 commenters explain, many advanced telecommunications services  
12 require specialized CPE that customers would otherwise need to  
13 buy separately because they represent new technologies that  
14 traditional CPE does not support. By providing the necessary  
15 equipment as part of a discounted package, possibly including  
16 leasing or amortizing the purchase of the equipment, a carrier can  
17 eliminate some of the up-front investment cost that inhibits  
18 customers from subscribing to the service.

19  
20 *Id.* at ¶34.  
21

22 Q. DID THE FCC ADDRESS CONCERNS THAT INCUMBENT LOCAL  
23 EXCHANGE CARRIERS MIGHT ATTEMPT TO USE BUNDLING TO  
24 HARM COMPETITION IN THE LOCAL EXCHANGE MARKET?

25  
26 A. Yes. The FCC concluded, “in light of the existing circumstances in these  
27 markets, that the risk of anticompetitive behavior by the incumbent LECs in  
28 bundling CPE and local exchange service is low and is outweighed by the  
29 consumer benefits of allowing such bundling.” *Id.* at ¶33 (emphasis added).

1 Q. DID THE FCC EXPLAIN WHY IT VIEWS THE RISK OF  
2 ANTICOMPETITIVE CONDUCT BY INCUMBENTS AS LOW?

3  
4 A. Yes. The FCC explained that “[w]e view the risk as low not only because of the  
5 economic difficulty that even dominant carriers face in attempting to link forcibly  
6 the purchase of one component to another, but also because of the safeguards that  
7 currently exist to protect against this behavior.” *Id.* at ¶33 (emphasis added).

8 Another factor the FCC considered in reaching its conclusion was

9 the removal of barriers to entry in the local market contained in the  
10 1996 Act and the subsequent increase in local competition, as well  
11 as the Commission's decision to lift similar bundling restrictions in  
12 the cellular markets, that tip the balance in favor of lifting the  
13 bundling restriction on the incumbent LECs' provision of local  
14 exchange service and CPE.

15  
16 *Id.*, at ¶30 (emphasis added).  
17

18 Q. WHAT ARE SOME OF THE SAFEGUARDS THAT ARE IN PLACE TO  
19 PROTECT AGAINST HARM TO COMPETITION THAT THEORETICALLY  
20 COULD BE BROUGHT ABOUT BY BUNDLING?

21  
22 A. There are many safeguards that the FCC recognized in its Bundling Order, and I  
23 will not attempt to address all of them here. Among the many safeguards that  
24 exist, however, is the fact that incumbent carriers that market products and  
25 services together at a single price must offer local exchange service components  
26 of the bundle to consumers separately at stand-alone prices, which “ensures that  
27 carriers cannot restrain competition or impede consumer choice.” *Id.* at ¶18. The

1 FCC explained that this separate availability of local exchange service  
2 components of a package on nondiscriminatory terms is an essential safeguard  
3 that “prevent[s] the improper extension of market power.” *Id.* at ¶18. *See also,*  
4 *Id.* at ¶37, ¶44.

5  
6 The FCC also noted that “our cost-accounting rules reduce significantly the  
7 BOC’s incentive and ability to misallocate costs between their regulated and  
8 unregulated service operations.” *Id.*, at ¶45.

9  
10 Finally, while acknowledging that “there is the risk that an incumbent LEC with  
11 market power in the local exchange market could force a customer to purchase  
12 CPE in order to obtain local exchange service,” the FCC stated that

13 We must now take into account, however, that the 1996 Act  
14 changed dramatically the telecommunications landscape by,  
15 among other things, removing entry barriers in the local market.  
16 For instance, section 251 imposes a duty on LECs possessing  
17 market power in the local exchange market to negotiate in good  
18 faith and provide interconnection to competitive carriers, and  
19 provides a list of minimum standards that the incumbent LEC must  
20 offer, including unbundled access to its network and  
21 interconnection that is at least equal in type, quality, and price that  
22 the incumbent LEC provides to itself or any other party. Incumbent  
23 LECs must also offer for resale at wholesale rates any retail  
24 telecommunications service. Section 253 of the Act also mandates  
25 that states may not enact any requirement that prohibits or has the  
26 effect of prohibiting any entity from providing interstate or  
27 intrastate telecommunications service, and requires states and  
28 localities to manage rights-of-way to which competitors need  
29 access in a competitively-neutral and non-discriminatory manner.  
30 [FN109] As a result, local competition has begun to grow as we  
31 indicated above. As this competition increases, we believe that  
32 incumbent LECs will either offer bundled or unbundled packages  
33 as consumers demand or risk losing ground to more responsive  
34 competitors.

1 *Id.*, at ¶36.  
2  
3

4 Q. IS THERE ANY BASIS FOR THE FCC'S BELIEF THAT AS COMPETITION  
5 CONTINUES TO INCREASE IN THE LOCAL EXCHANGE MARKET,  
6 "INCUMBENT LECS WILL EITHER OFFER BUNDLED OR UNBUNDLED  
7 PACKAGES AS CONSUMERS DEMAND OR RISK LOSING GROUND TO  
8 MORE RESPONSIVE COMPETITORS?"  
9

10 A. Yes. The FCC explained that since it lifted restrictions on bundling cellular  
11 service and cellular equipment, "sales of cellular telephones and overall  
12 subscribership to cellular service have increased dramatically," and the FCC  
13 views bundling "one of the positive factors that encouraged it." *Id.*, at ¶36.  
14

15 Q. DO BELLSOUTH'S COMPETITORS OFFER BUNDLES OF SERVICES  
16 PRICED AT LESS THAN THE SUM OF WHAT THEY WOULD PAY IF  
17 THEY PURCHASED EACH OF THE SERVICES IN THE BUNDLE  
18 INDIVIDUALLY?

19 A. Yes – the highly competitive telecommunications market in South Carolina forces  
20 companies to offer these kinds of bundles. This is evident from Exhibit JAR-2,  
21 which is a copy of a newsletter that appears on NewSouth Communications'  
22 website. In this newsletter, NewSouth explains that:

23 In the past couple of years, most businesses have indicated that  
24 they would prefer to receive their services bundled. In 2000, two  
25 studies by *The Strategis Group* revealed that 66 percent of  
26 businesses want bundles with at least two services. With this in

1 mind, many communications providers are launching bundled  
2 packages to suit most businesses' needs, no matter what their size.

3 NewSouth's newsletter goes on to explain that at least two reasons support  
4 customers' desire to bundle their services:

5 **Convenience** –Hands down, convenience is the number one reason  
6 businesses are looking for a bundled package of services. Bundles  
7 eliminate tracking of separate bills and also provide a single point of  
8 contact. In summer 2002 a study by *Horowitz Associates Inc.*, a  
9 communications market research firm in Larchmont, N.Y., found that half  
10 of consumers would be willing to buy bundled phone services even if the  
11 plans wouldn't save them any money. The bottom line is that bill-payers  
12 are looking for, and finding, new ways to consolidate.

13 **Discounts** – Yes, its true. In most cases, businesses are able to save  
14 anywhere from 10 to 50 percent over services ala carte. With more and  
15 more companies utilizing more communications services, this can make a  
16 significant difference.

17

18 Q. WHAT TYPE OF SERVICES TYPICALLY ARE INCLUDED IN THESE  
19 BUNDLES?

20 A. As NewSouth's newsletter explains, there are as many types of bundles as there  
21 are competitors in the marketplace:

22 Typical bundles for businesses include a combination of local  
23 phone service, long distance, and Internet access. More complex  
24 bundled packages can often include various speeds of Internet  
25 access, web hosting, phone cards, and other enhanced data and  
26 voice features. Most communication providers have several  
27 bundled choices that fit a business' size future growth. As the  
28 demand for convenience at the lowest cost grows, bundles will  
29 continue to be tweaked and developed as they evolve. Already,  
30 they can make a big difference for your business.

31 See Exhibit JAR-2.

1 As explained in detail below, NewSouth is right with regard to both the residential  
2 market and the business market in South Carolina. Residential and business  
3 customers can choose from a wide array of services (including myriad bundles)  
4 offered by many service providers.

5 **A. EXAMPLES OF CLEC RESIDENTIAL OFFERINGS IN SOUTH CAROLINA**  
6  
7

8 Q. CAN RESIDENTIAL CUSTOMERS IN SOUTH CAROLINA OBTAIN  
9 BUNDLED SERVICE OFFERINGS FROM CLECS?  
10

11 A. Absolutely. Birch, DeltaCom, E-Z Tel, Knology, Momentum, MyLine, VarTec,  
12 WorldCom (now known as MCI), and Z-Tel are among the many local service  
13 providers that offer telecommunications services (including bundles of services)  
14 to residential customers in South Carolina.  
15

16 Q. PLEASE DESCRIBE SOME OF BIRCH'S RESIDENTIAL OFFERINGS IN  
17 SOUTH CAROLINA.  
18

19 A. Birch Telecom's webpage advertises at least three packages of services that are  
20 available to residential customers in South Carolina. These packages range from  
21 \$28.50 to \$33.50 per month, and each package includes anonymous call rejection,  
22 caller ID, call waiting, and call waiting ID. Other features available from Birch  
23 include auto redial / call return / 3-way calling; call blocker; call forward (remote  
24 access optional); call forward busy line / no answer; call forward selective;

1 distinctive ring; distinctive ring additional; priority call; and speed call 8. Exhibit  
2 JAR-3 is a copy of the materials I have just referenced.

3  
4 Q. PLEASE DESCRIBE SOME OF DELTACOM'S RESIDENTIAL OFFERINGS  
5 IN SOUTH CAROLINA.

6  
7 A. According to DeltaCom's tariff, DeltaCom does business as "Grapevine" in South  
8 Carolina, and its "State of Grape Local Service" for example, offers residential  
9 customers who "select "Grapevine" as both their Local Exchange Carrier and  
10 Interexchange Carrier (for interstate, intrastate, and intraLATA toll calls)" a  
11 primary line for \$39.99 per month and up to two additional lines for a monthly  
12 charge of \$24.99 each. The following features "are also provided at no additional  
13 charge on the primary line: call waiting, call waiting ID, caller ID, 3-way calling,  
14 anonymous call rejection, blocking for caller ID, international call blocking,  
15 collect call blocking, third party blocking, third party collect call blocking, toll  
16 call blocking, and 900/976 blocking."

17  
18  
19 Exhibit JAR-4 is a copy of the materials I have just referenced.

20  
21 Q. PLEASE DESCRIBE SOME OF E-Z TEL'S RESIDENTIAL OFFERINGS.

1 A. E-Z Tel, Inc. recently filed a tariff with the Commission that offers various  
2 residential services in South Carolina. Customers who purchase a residential line  
3 may add one or more of the following features at a monthly recurring rate of  
4 \$5.00 each: automatic redial, call block, call forwarding, call forwarding busy /  
5 no answer, call rejection, call return, call selector, call waiting, non-published  
6 number, speed dial, three-way calling, and hunting. Customers may also add  
7 caller ID and call waiting / caller ID to a residential line at a monthly recurring  
8 rate of \$10.00 each. Alternatively, residential customers can purchase one of  
9 three "bundled service packages" that include a line and various features for  
10 \$39.99 or less. Exhibit JAR-5 is a copy of the materials I have just referenced.

11  
12 Q. PLEASE DESCRIBE SOME OF KNOLOGY'S RESIDENTIAL OFFERINGS.

13  
14 A. Knology's webpage says that "Knology connects you to the world . . . through our  
15 combination of Telephone, Cable TV and Internet Services," and it invites  
16 residential subscribers to "Let us design a bundle for you today!" Among the  
17 Knology offerings available in South Carolina is a package for \$49.95 per month  
18 that includes 1250 minutes of long distance, deluxe caller ID, call waiting display,  
19 and voicemail.

20  
21 The webpage also describes Knology Digital Telephone, which includes custom  
22 calling features, advanced calling features, directory services, and voice mail.  
23 Among the features offered on the website are anonymous call rejection,

1 automatic callback, automatic recall, call block, call forwarding, distinctive  
2 ringing, selective call acceptance, selective call forwarding, selective call  
3 rejection, speed calling, three-way calling, intelli-ring, call waiting, caller ID,  
4 caller ID deluxe, call forward busy, call forward don't answer, remote access to  
5 call forwarding, and call waiting display.

6  
7 In discussing "bundled savings," Knology's website says that "Knology services  
8 are priced to save you more money the more you bundle." Among other things,  
9 "[w]hen you combine Knology's Digital Telephone service with one or more other  
10 Knology services, you are eligible for a 5% discount on your local phone line(s)  
11 and your Smart Choice feature package!"

12  
13 Another example of the services that can be bundled with Knology's local  
14 telephone service is discussed in an advertisement that appeared in the Charleston  
15 Post and Courier on June 10, 2003. One side of the ad offers, among other things:

16 Expanded Basic Cable \$25/month for 3 months

17 Bundled saving when you add phone and Internet

18 Knology OneBill – a single convenient monthly statement for all your  
19 Knology services.

20  
21 The other side of the advertisement offers "High-Speed Internet \$25/month for 3  
22 months (including modem)," and it touts "2 Mbps cable modem – faster than any  
23 other cable, DSL or dial-up service."

24  
25 Exhibit JAR-6 is a copy of the materials I have just referenced.

1 Q. PLEASE DESCRIBE SOME OF MOMENTUM'S RESIDENTIAL  
2 OFFERINGS.

3  
4 A. A Momentum advertisement that ran in *The State* newspaper on or about July 6,  
5 2003 says "Attention BellSouth Residential Customers: You can Save Big By  
6 Joining Momentum Family." (Emphasis added). According to the  
7 advertisement, the "Momentum FAMILY 60" offering includes "FREE Unlimited  
8 Local Calling," "FREE 60 Minutes Long Distance," and "FREE 10 Popular  
9 Calling Features" for as low as \$29.95 a month. The "Momentum FAMILY  
10 Unlimited" offering includes "FREE Unlimited Local Calling," "FREE Unlimited  
11 Long Distance," and "FREE 10 Popular Calling Features" for as low as \$42.95 a  
12 month.

13  
14 Momentum's website further explains that this \$42.95 a month offer includes a  
15 line plus caller ID deluxe, call waiting ID, 3-way calling, repeat dialing, call  
16 forward, call block, call return, 30 code speed dial, 900/976 rejection, anonymous  
17 call rejection, and unlimited long distance calling anywhere in the continental  
18 United States.

19  
20 Exhibit JAR-7 is a copy of the materials I have just referenced.

21  
22 Q. PLEASE DESCRIBE SOME OF MYLINE'S RESIDENTIAL OFFERINGS.

1 A. An ad that ran in the *Easley Progress and the Daily Journal-Messenger* during  
2 the week of April 14, 2003 touts MyLine residential services with phrases such as  
3 "No Deposit!" "No Switching Fee!" and "Keep Your Same Number!" According  
4 to the ad, "MyLine Basic Phone Service" offers the following from \$29.95:

5 Friends-R-Free unlimited long distance to other MyLine  
6 customers;

7  
8 Local Calling within your basic calling service area;

9  
10 Three calling features – call waiting, call return, and three way  
11 calling; and

12  
13 "long distance FREE when calling other MyLine customers and  
14 only 6.9¢ per minute for all other in-state and state-to-state calls!" .  
15

16 Additionally, "MyLine Complete Home Phone Service" offers "unlimited long  
17 distance to anyone!!!" as well as "local calling within your basic calling service  
18 area" and "ten calling features – caller ID, call waiting, call return, three way  
19 calling, call blocking, call forwarding, distinctive ring, auto redial, speed dial, and  
20 anonymous call rejection" from \$49.95. Exhibit JAR-8 is a copy of the materials  
21 I have just referenced.  
22

23 Q. PLEASE DESCRIBE SOME OF VARTEC'S RESIDENTIAL OFFERINGS.  
24

25 A. VarTec Telecom, Inc.'s webpage indicates that it offers various local residential  
26 service packages in South Carolina that are priced from \$29.95 per month to  
27 \$49.95 per month. Depending on the package, VarTec offers call waiting deluxe,  
28 caller ID deluxe, 300 minutes of domestic long distance, call block, call return,

1 repeat dialing, speed calling 8, and three-way calling. Exhibit JAR-9 is a copy of  
2 the materials I have just referenced.

3  
4 Q. PLEASE DESCRIBE SOME OF WORLDCOM'S (NOW KNOWN AS MCI'S)  
5 RESIDENTIAL OFFERINGS.

6  
7 A. By now, everyone has seen "the Neighborhood" television commercials and  
8 newspaper advertisements featuring actor Danny Glover and the bright yellow  
9 and green colors. In addition to these aggressive television and newspaper  
10 campaigns, MCI also sends direct mail pieces to potential subscribers. One such  
11 piece, which was sent to a person in Spartanburg, South Carolina, tells potential  
12 residential customers that

13 Now from your home phone you can get **unlimited local** and  
14 **unlimited long distance** from one company, on one bill!

15  
16 According to this mailing, "for \$55.99" a month the "Neighborhood Complete"  
17 offering provides "unlimited local calls, unlimited regional calls, unlimited long  
18 distance, call waiting, caller ID, and voicemail." The mailing says that customers  
19 also receive "**10 FREE movie or game rental certificates** good at a participating  
20 BLOCKBUSTER store," and that customers will "continue to earn a free rental  
21 certificate for every \$25 [they] spend each month as a member of The  
22 Neighborhood. **That's up to 34 free rentals a year!**" And that is just one  
23 "Neighborhood" offering – the mailing says that "the Neighborhood has a range  
24 of plans for you to choose from."

1 MCI's webpage says that over 2 million customer have joined the Neighborhood,  
2 and its says that

3 The Neighborhood isn't just about talking on your phone – its  
4 about getting the most out of it. That's why Call Waiting, Caller  
5 ID, Call Waiting ID, Speed Dial 8 and Three-Way Calling are  
6 included at no extra charge. So you can do things like: see who's  
7 calling before you answer, call someone at the touch of a button,  
8 get three people on the line whenever you want, and never miss an  
9 important call.

10  
11 Exhibit JAR-10 is a copy of the materials I have just referenced.  
12

13 Q. PLEASE DESCRIBE SOME OF Z-TEL'S RESIDENTIAL OFFERINGS.

14  
15 A. Z-Tel's webpage says that "Z-LineHOME is the first complete home phone  
16 service. It's everything you need in one package, for less than other phone  
17 companies would charge you for a similar package." This page describes a \$59.99  
18 per month "Z-LineHOME Unlimited for South Carolina" plan that includes  
19 unlimited local calling, unlimited domestic long distance, personal voice assistant,  
20 call waiting, caller ID, 3-way calling, speed calling, enhanced voice mail, Find  
21 Me call forwarding, notify me, and Z-LineHOME access card. Exhibit JAR-11 is  
22 a copy of the materials I have just referenced.

23  
24 **B. EXAMPLES OF CLEC BUSINESS OFFERINGS IN SOUTH CAROLINA**  
25  
26

27 Q. CAN BUSINESS CUSTOMERS IN SOUTH CAROLINA OBTAIN  
28 TELECOMMUNICATIONS SERVICES LIKE THOSE THAT ARE SUBJECT  
29 TO BELLSOUTH'S TARIFF FILING FROM OTHER SERVICE PROVIDERS?

1 A. Absolutely. BTI, Knology, NewSouth, NuVox, Southeastern Telecom and Sprint  
2 are among the many local service providers that offer telecommunications  
3 services (including bundles of services) to business customers in South Carolina.  
4

5 Q. PLEASE DESCRIBE SOME OF BTI'S BUSINESS OFFERINGS.  
6

7 A. BTI's website says

8 Think you're stuck with the same giant company for local dial  
9 tone? BTI offers the same reliable service as the incumbent, with  
10 all of the features and extras your business requires. With the most  
11 "Bell-like" network in the Southeast, we are your single-source for  
12 a full range of enhanced local service. The difference? Lower rates  
13 and the simplicity of BTI.  
14

15 According to its website, BTI offers a "complete selection of custom features  
16 (including but not limited to: call waiting, call forwarding, speed dial, three way  
17 calling, call return, caller ID, repeat dial, etc.)." This webpage also discusses  
18 "BTI's two flagship bundles" and says "[w]hether you require voice, data or  
19 Internet, our flexible, customizable packages are the smart business choice" that  
20 "simplify your life with one company, one bill, and one point of contact." Exhibit  
21 JAR-12 is a copy of the materials I have just referenced.  
22

23 Q. PLEASE DESCRIBE SOME OF KNOLOGY'S BUSINESS OFFERINGS.  
24

25 A. A Knology advertisement that appeared in the May 2003 edition of the Central  
26 Savannah River Area Business Monthly magazine offers three phone lines, free  
27 hunting, and two free features for \$85.60 per month. It also says "add high speed

1 Internet access and receive 1st month free with free cable modem rental," and it  
2 offers "flat rate long distance as low as \$0.05 per minute!!!" Exhibit JAR-13 is a  
3 copy of the materials I have just referenced.  
4

5 Q. PLEASE DESCRIBE SOME OF NEWSOUTH'S BUSINESS OFFERINGS.  
6

7 A. According to its website, NewSouth offers "an array of software-defined features  
8 provided by our Lucent AnyMedia™ digital switch," including hunting, call  
9 forwarding, call waiting, conferencing, and speed calling. NewSouth also offers  
10 various enhanced features, including Individual Dialing Plans that allow its  
11 facilities-based voice customers to access separate office location through three,  
12 four, or five-digit dialing; conference calling for up to six people "whenever you  
13 need it, without higher rates;" queuing that allows customers to redirect excess  
14 calls to a waiting group or queue until a line is available, and single and multiple  
15 line forwarding. Exhibit JAR-14 is a copy of the materials I have just  
16 referenced.  
17

18 Q. PLEASE DESCRIBE SOME OF NUVOX'S BUSINESS OFFERINGS.  
19

20 A. NuVox's website offers the NuBundle Business Package that is comprised of  
21 "unlimited high-speed Internet access, Web hosting, feature-rich local phone  
22 service and long distance service." The website also states that another offering,  
23 CompleteVoice Plus, "offers feature-rich local service, affordable long distance,

1 and robust optional calling features for businesses requiring a powerful  
2 communications solution." Exhibit JAR-15 is a copy of the materials I have just  
3 referenced.

4  
5 Q. PLEASE DESCRIBE SOME OF SOUTHEASTERN TELECOM'S BUSINESS  
6 OFFERINGS.

7  
8 A. The June 10, 2003 edition of the *Greenville News* ran an advertisement for  
9 Southeastern Telecom, Inc. touting "competitive rates" for "local/long distance  
10 service," "dedicated Internet Services," and "Data  
11 Networks/Frame/ATM/IP/DSL." It includes the phrase, "Proudly serving BMW  
12 from Day One!" Exhibit JAR-16 is a copy of the materials I have just referenced.

13  
14 Q. PLEASE DESCRIBE SOME OF SPRINT'S BUSINESS OFFERINGS.

15 A. A Sprint press release dated April 29, 2003 announces that Sprint is opening  
16 several new business sales offices in key cities in South Carolina. Additionally,  
17 an article that appeared in the May 21, 2003 edition of the *Spartanburg Herald-*  
18 *Journal* states that Sprint "is moving to sell local phone service to its cellular and  
19 long-distance customers" because it believes "the local plan could develop into an  
20 effort to get more people to drop landlines and go all wireless." It goes on to say  
21 that a Sprint executive "acknowledges the grave threat that Internet-based  
22 communications and other technologies pose to traditional landline calling."  
23 Exhibit JAR-17 is a copy of the materials I have just referenced.

1                    **C. EXAMPLES OF OFFERINGS VIA OTHER TECHNOLOGIES**  
2  
3

4        Q.        THE RESIDENTIAL AND BUSINESS OFFERING YOU HAVE JUST  
5                DESCRIBED ARE ALL TRADITIONAL LANDLINE OFFERINGS. IS  
6                TRADITIONAL LANDLINE SERVICE THE ONLY TYPE OF  
7                TECHNOLOGY BY WHICH VOICE SERVICES ARE AVAILABLE IN  
8                SOUTH CAROLINA?

9  
10      A.        Not at all. Voice services also are available over wireless and Internet  
11                technologies.

12  
13      Q.        PLEASE GIVE AN EXAMPLE OF VOICE SERVICES THAT ARE  
14                AVAILABLE THROUGH WIRELESS TECHNOLOGY IN SOUTH  
15                CAROLINA.

16  
17      A.        You can hardly open a newspaper these days without seeing advertisements for  
18                wireless packages that include various bundles of local service, long distance  
19                service, and features at highly competitive rates. For example, SunCom (which  
20                is a member of the AT&T Wireless Network) recently ran an advertisement in  
21                *The State* newspaper that reads, "Get all your calls, all the time, for one low  
22                price." The ad touts the "highest quality digital network," and it says that  
23                customers can "call anytime anywhere." According to the ad, there are "no long  
24                distance or roaming charges," and there is "one flat monthly subscription. Only  
25                \$49.95."

1 A flyer Sprint recently circulated advertises 500 Anytime Minutes, Unlimited  
2 PCS to PCS calling, unlimited night and weekend minutes, and "nationwide long  
3 distance included every minute, every day" for \$45.00 per month. The other side  
4 of the flyer says "Sprint gives you an incredible selection of PCS Phones with  
5 features including: built-in camera, full-color screens, games, voice-activated  
6 dialing, caller ID, speakerphone and so much more," and it says "now, save up to  
7 \$100 on select PCS phones!"

8  
9 Exhibit JAR-18 is a copy of the materials I have just referenced.

10  
11 Q. PLEASE GIVE AN EXAMPLE OF VOICE SERVICES THAT ARE  
12 AVAILABLE THROUGH INTERNET TECHNOLOGY IN SOUTH  
13 CAROLINA.

14  
15 A. Vonage's website advertises, among other things, a plan for \$39.99 per month that  
16 offers

17 FREE Long Distance

18  
19 FREE Call Waiting

20  
21 FREE Voice Mail

22  
23 FREE Call Forwarding

24  
25 FREE Repeat Dialing

26  
27 FREE Call Transfer

28  
29 FREE Caller ID block  
30

1 Int'l Fees to Canada Waived

2  
3 Virtual Phone Numbers

4  
5 Any area code of your choice

6  
7 A recent press release for Vonage discusses "Vonage Digital Voice telephone  
8 service offering free unlimited local and long distance calling, including the most  
9 popular features like call waiting, call forwarding and voicemail for one low, flat  
10 monthly rate." The release quotes the chairman and CEO of Vonage as saying

11 Vonage is bringing South Carolina's capital city the freedom and  
12 flexibility to select an affordable new phone service. As we  
13 expand further into the South, Vonage is the choice for residents  
14 and small businesses offering flat-rate calling plans throughout the  
15 US and Canada that include all of the features, as well as many  
16 features not available from traditional phone carriers like online  
17 voicemail retrieval and area code selection.

18  
19 (Emphasis added). The press release quotes residential prices of \$25.00 per  
20 month to \$39.99 per month for residential customers and \$39.99 per month to  
21 \$69.99 per month for business customers.

22  
23 Additionally, Vonage's service was featured as the cover story in the "Money"  
24 section of the *USA Today* on July 7, 2003. The article discusses a St. Louis  
25 customer who "ditched his trusty SBC Communications local phone service in  
26 favor of an offering from . . . Vonage." The article goes on to say that:

27 Now [the residential customer's] calls travel over the Internet via  
28 his cable broadband line. His typical \$120 monthly bill has been  
29 cut to a flat \$39.99 rate for unlimited local and long distance calls  
30 and features such a caller ID. Because his physical location is  
31 irrelevant for Internet phone service, he was able to choose a  
32 number with a San Francisco area code (415), allowing a close  
33 friend in that city to dodge long-distance charges. Plus, via a PC  
34 he can hear his voice mail by clicking on e-mail, and he can update

1 his call-forwarding, track his calls and bills and even change his  
2 phone number, all on the Web.

3  
4 The article then quotes a cable company executive as saying "the big selling point  
5 for Web-based calling will be a whole new range of features."  
6

7 Exhibit JAR-19 is a copy of the materials I have just referenced.  
8

9 Q. HAVE YOU DISCUSSED ALL OF THE COMPETITIVE OFFERINGS THAT  
10 ARE AVAILABLE TO SOUTH CAROLINA RESIDENTIAL AND BUSINESS  
11 CUSTOMERS?

12 A. No, and given that hundreds of CLECs are authorized to provide local exchange  
13 telecommunications service in South Carolina, it would be impossible to do so.  
14 My testimony hardly scratches the surface of the offerings that are available to  
15 consumers in South Carolina.

16 Q. GIVEN THE AVAILABILITY OF A VARIETY OF BUNDLES FROM A  
17 VARIETY OF PROVIDERS, IS BUNDLING LIKELY TO BE AN "ABUSE OF  
18 MARKET POSITION?"

19 A. No, it is not. When companies that obviously lack market power employ a  
20 bundling marketing strategy in order to succeed in the marketplace, it is  
21 reasonable to infer that there are appropriate pro-competitive reasons for  
22 employing that bundling strategy. In other words, the bundling strategy in no way

1 depends on the existence of market power, or the likelihood of acquiring market  
2 power, in order to succeed.

3 **VI. RECOMMENDED CRITERIA**

4 Q. DO YOU HAVE ANY SUGGESTIONS AS TO WHAT CRITERIA THE  
5 COMMISSION SHOULD ADOPT FOR DETERMINING WHETHER  
6 CERTAIN CONDUCT IS AN ABUSE OF MARKET POSITION?

7 A. Yes. Since September 2000, BellSouth has been operating pursuant to the price  
8 floor the Commission adopted in its Guidelines Order. Since July 2002, the rate  
9 increases set forth in the BellSouth tariff that led to the commencement of this  
10 proceeding have been in effect.

11  
12 And competition has flourished. More CLECs in South Carolina are offering  
13 more services in South Carolina to more customers in South Carolina than ever  
14 before. The existing price floor obviously are more than sufficient to protect the  
15 already vibrant and steadily growing competition that benefits consumers in South  
16 Carolina.

17  
18 Therefore, BellSouth believes that the Commission should adopt as a "safe  
19 harbor" a price floor of total service long run incremental costs. As BellSouth  
20 witness Dr. Taylor explains in his testimony, this price floor protects against cross

1 subsidies, and it goes even further than is necessary in protecting against  
2 predatory pricing.

3  
4 Q. WHAT DO YOU MEAN WHEN YOU SAY THE COMMISSION SHOULD  
5 ADOPT THIS PRICE FLOOR AS A "SAFE HARBOR?"

6  
7 A. By "safe harbor," I mean that the Commission should determine that price  
8 adjustments for "Other Services" are not an abuse of market position if the  
9 resulting prices are at or above total service long run incremental costs.

10  
11 Q. WHY IS IT APPROPRIATE TO ADOPT THIS SAFE HARBOR?

12  
13 A. This safe harbor provides an economically-sound bright-line test for determining  
14 that pricing conduct clearly is not an abuse of market position. Without this safe  
15 harbor, the Commission could be inundated with complaints by the Consumer  
16 Advocate and others any time a LEC operating under the alternative regulation  
17 statute adjusts its prices for "Other Services."

1 Q. HOW DO YOU SUGGEST THE COMMISSION SHOULD ADDRESS PRICE  
2 ADJUSTMENTS THAT DO NOT FALL WITHIN THIS "SAFE HARBOR?"

3  
4 A. As explained both in my testimony and in the testimony of BellSouth witness Dr.  
5 Taylor, prices that fall below total service long run incremental costs may or may  
6 not be an abuse of market position, depending on the circumstances. The  
7 Commission, therefore, should address adjustments that result in rates for "Other  
8 Services" that are below total service long run incremental costs in the manner  
9 suggested by Staff witness Dr. Spearman – on a case-by-case basis. In doing so,  
10 the Commission should apply traditional, tried-and-true antitrust principles to  
11 determine whether any such adjustment is, in fact, an abuse of market position.

12  
13 Q. ARE THERE ANY OTHER SAFEGUARDS THAT APPLY TO  
14 ADJUSTMENTS TO THE PRICES OF BELL SOUTH'S "OTHER SERVICES?"

15  
16 A. Yes. For all of the reasons explained in my testimony and in the testimony of  
17 BellSouth witness Dr. Taylor, a price cap for "Other Services" is neither  
18 necessary nor appropriate. BellSouth, however, volunteered to comply with the  
19 price cap the Commission adopted in its Guidelines Order, and BellSouth is  
20 continuing to volunteer to comply with that cap.

1 Q. DOES THAT CONCLUDE YOUR TESTIMONY?

2

3 A. Yes.

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